

(Revised October 21, 2013)

**BOROUGH OF ROCKY HILL
BOROUGH COUNCIL**

ORDINANCE NO.

**AN ORDINANCE AMENDING THE DEVELOPMENT REGULATIONS OF THE BOROUGH OF
ROCKY HILL TO SIMPLIFY AND CLARIFY PRESERVATION PLAN REQUIREMENTS**

BE IT ORDAINED by the Borough Council of the Borough of Rocky Hill in the County of Somerset and State of New Jersey as follows:

Section 1: Section 302 in Article 3 (Definitions) shall be amended to include the following changes:

302 CERTAIN WORDS AND PHRASES ARE HERIN DEFINED AS FOLLOWS

ACCESSORY BUILDINGS. Subordinate buildings, outbuildings, or structures on the same lot with a main building, occupied or devoted exclusively to an accessory use, ~~but in no event greater in height nor or having a total combined volume greater than 50% of the cubic footage of the main building.~~ Even if an accessory building is attached to a main building in a substantial manner by a wall or roof, such structure shall be considered an accessory building. For purposes of minimum setback and maximum height requirements, however, such structure shall be considered an accessory building only if it does not share a common wall with the main building.

ADMINISTRATIVE OFFICER. The Construction Code Official, the Zoning Officer, or other Borough employee or contracted professional designated to receive, review and process development and /or preservation plan applications.

Note: Insertions denoted by underlines, deletions noted by ~~strike-through~~.

ALTER. To change the appearance of exterior elements of a structure ~~of or~~ to change the visible materials and finishes used in such elements, but not including a change in color.

BUILDING, PRINCIPAL. A non-accessory building in which a principal use of the lot, on which it is located, is conducted.

HISTORIC PRESERVATION COMMISSION. Local commission charged with the responsibility of planning and advising Borough officials regarding the protection of local historic sites and districts pursuant to N.J.S.A. 40:55D-107. The Rocky Hill Planning Board pursuant to N.J.S.A. 40:55D-27(d) shall exercise the powers of the Historic Preservation Commission.

HISTORIC REVIEW SUBCOMMITTEE. A subcommittee of the Planning Board appointed by the Planning Board Chairperson and charged with specific duties related to historic preservation plans as articulated in Section 507.

ORDINARY MAINTENANCE. Acts required to preserve, repair, or restore the existing exterior structural or decorative elements of a building or a structure subject to this ordinance. Repairing any structural, cosmetic, or other deterioration, wear, or damage to a structure or any part hereof so as to restore same to its condition prior to the occurrence of such deterioration, wear, or damage without any change in the visible materials and ~~finished finishes~~ used. All replacement elements and materials must be in kind with the materials being replaced.

~~OUTBUILDINGS.~~ ~~Accessory buildings as defined herein.~~

PRESERVATION PLAN. A plan, and other information as may be required for submission, setting forth the work for which a preservation permit is necessary, and meeting the submissional requirements of Section 507A1.

PRESERVATION PLAN, MAJOR. Building and/or site improvements that substantively alter the size or appearance of a structure from a public or private street, use materials that are not visually in kind with the materials being replaced, add or substantively alter decorative or structural elements, or involves demolition.

PRESEVATION PLAN, MINOR. Building and/or site improvements that have no visual impact on the Historic District from a public or private street. Minor preservation plan construction must be of visually in-kind materials and shall include but not be limited to such elements as siding, windows, exterior railings, shutters, and doors. Such minor plans may also include such site improvements as the placement and design of storage sheds of less than 100 square feet, fences or the retaining walls. Minor preservation plan improvements shall not substantially change the appearance of the primary structure or the lot.

STRUCTURE. A combination of materials and finishes which forms a construction for occupancy, use, or ornamentation installed below, at, or above the surface of the ground, including but not limited to buildings, patios, decks, swimming pools, tennis courts, fences, posts, walls, exterior lighting fixtures, walkways, signs, and ~~outbuildings~~ accessory buildings but not including landscaping and plant materials.

Section 2: The last two sentences in Section 409 (Enforcing Officers) in Article 4 (General Provisions) shall be amended so as to read as follows:

409 ENFORCING OFFICERS

It shall be the duty of the zoning officer ~~(who shall be the building inspector)~~ to administer and enforce the zoning provisions of this ordinance. No building permit shall be issued unless the plans are accompanied by an approved zoning permit. No zoning permit shall be issued unless the proposed structure, use, temporary activity, and construction activities are in compliance with this ordinance. In cases involving the new use of an existing structure, no certificate of occupancy for the new tenant shall be issued until a zoning permit has been issued.

~~It shall be the duty of the Municipal Engineer to enforce the provisions of subdivision and site plan approvals.~~

Section 3: Section 417 (Planning Board), Paragraph D (Power and Duties), subparagraph 12 in Article 4 (General Provisions) shall be amended so as to read as follows:

12. To exercise, to the same extent and subject to the same restrictions, all of the powers of a historic preservation commission, including the powers to:

- a. prepare a survey of historic sites in the Borough of Rocky Hill pursuant to criteria identified in the survey report;
- b. act on applications for preservation plan approval, including such applications when filed in conjunction with applications for development, in the manner set forth in section 507;
- c. maintain a collection of preservation materials to assist applicants in complying with the provisions of section 713; and
- d. carry out such other advisory, educational and informational functions as will promote historic preservation in the Borough of Rocky Hill.
- e. insure that the master plan includes the historic preservation element and analyses required by N.J.S.A. 40:55D-109b, as may be amended from time to time ;
- f. provide advice on the inclusion of historic sites in a recommended capital improvement program;
- g. act on applications for development pursuant to N. J. S. A. 40:55D-110, as may be amended from time to time, and as provide within the Borough's Historic Preservation ordinance, and;

h. appoint annually the members of the Historic Review Subcommittee that consists of the Chairman of the Planning Board, the Borough Zoning Officer, and one or two other members of the Planning Board to act on Minor Preservation Plans as specified in section 507C.

Section 4: Section 419 (Preservation Permits), Subsection A, in Article 4 (General Provisions) shall be amended so as to read as follows:

419 PRESERVATION PERMITS

A. ~~When required;~~ Covered Acts Requirements

~~No person shall within the Historic Preservation District construct, alter, or restore a structure or take action which requires site plan approval pursuant to section 423, or move a structure into or within the Historic Preservation District, or demolish or remove from the Historic Preservation District a structure built before 1930 if the results thereof would be visible from a public way or place, nor shall any person cause any such work to be performed, nor shall any building permit for such work be issued by a Borough official unless a preservation permit has been issued therefor. Nothing in this section shall be construed to require a preservation permit for the ordinary maintenance of any exterior element of a structure visible from a public way or place. Any change in paint color on any existing structure, provided that the surface was previously painted, and any replacement in kind shall not be considered a covered act hereunder.~~

1. Covered Acts

The following activities shall require a Historic Preservation Permit:

- a. Constructing, altering or restoring structures within the Historic Preservation District, except as exempted below;
- b. Constructing, altering or restoring site improvements on lots within the Historic Preservation District, except as exempted below;

- c. Moving structures into or within of the Historic Preservation District; and
- d. Demolishing all or part of a structure in the Historic Preservation District.

2. Exempted Acts

The following activities are exempt from Historic Preservation review and do not require a Historic Preservation Permit:

- a. Ordinary maintenance as defined in Section 302 of this ordinance;
- b. Painting and/or changing the paint color of any surface that was previously painted;
- c. Interior construction, and;
- d. Construction, alteration, or restoration of a structure if the proposed activities will not be visible from a public or private street.

Section 5: Section 507 (Submission of Preservation Plan for Preservation Permit; Action Thereon) in Article 5 (Development Review Procedures and Plat Details) shall be replaced in its entirety by the following:

**507 SUBMISSION OF PRESERVATION PLAN FOR PRESERVATION PERMIT;
ACTION THEREON**

A. Classification of Plans; Major and Minor Submission Requirements; Determination of Completeness; Referral to Board; Noticing Requirements.

1. Classification of Plans – Major or Minor

a. The administrative officer shall classify an application for preservation plan approval as either a major or a minor preservation plan in

accordance with the definitions of major and minor preservation plans as articulated in Article 3, Section 302.

b. An applicant may contest the administrative officer's classification of the plans by making an application to the Planning Board in accordance with the same regulations for contesting a zoning interpretation, pursuant to N.J.S.A. 40:55D-70 as may be amended from time to time.

c. Preservation plans will be classified as major or minor within the time frame for determining whether such an application is complete as stipulated in N.J.S.A 40:55D-10.3 as may be amended from time to time.

2. Classification of Plans - Historic Structure Status

a. Coincident with classifying an application as major or minor, the administrative officer shall also classify the subject structure or property as pre-1930 or post-1929 for the purposes of identifying the appropriate criteria against which the application will be reviewed.

b. An applicant may contest the administrative officer's classification of the historic structure status by making an application to the Planning Board in accordance with the same regulations for contesting a zoning interpretation, pursuant to N.J.S.A. 40:55D-70 as may be amended from time to time.

3. Major Preservation Plan Submission Requirements

a. An applicant for a major preservation permit shall submit to the Administrative Officer a completed preservation plan application form, a major preservation plan, and supporting documentation, including color photographs of the property in question and surrounding properties; product specifications; and, where appropriate, elevations, details such as information regarding fenestration, roofing materials, exterior siding and other finishing materials, and building material samples. The documentation must be sufficient to demonstrate how the proposed improvement will

appear in context. Color photocopies of photographs in lieu of colored prints may be submitted.

b. The applicant shall provide fifteen (15) copies of the completed application form, major preservation plan and all supporting documentation at the time of filing, except that only one (1) sample of each building material need be submitted.

c. The applicant shall submit requisite fees and escrow payments in accordance with the Borough Development Fee and Escrow Ordinance.

4. Minor Preservation Plan Submission Requirements

a. An applicant for a minor preservation permit shall submit to the Administrative Officer a completed preservation plan application form, a minor preservation plan, and supporting documentation, which may include color photographs of the property in question and surrounding properties; product specifications; elevations, details, and building material samples. The documentation must be sufficient to demonstrate how the proposed improvement will appear in context. Color photocopies of photographs in lieu of colored prints may be submitted.

b. Five (5) copies of the completed application form, minor preservation plan and all supporting documentation submitted therewith shall be provided at the time of filing, and further provided that only one (1) sample of each building material need be submitted.

c. The applicant shall submit requisite fees and escrow payments in accordance with the Borough Development Fee and Escrow Ordinance.

5. Determination of Completeness

a. Major Preservation Plan Completeness. The Administrative Officer shall determine that the application is complete based on the information submitted.

Notification of application completeness shall be made within 45 calendar days of the date of filing. If the application is deemed incomplete, the Administrative Officer shall at the same time advise the applicant of the deficiencies in the submission. All re-filings shall be treated as initial filings for purposes of this section.

b. Minor Preservation Plan Completeness. The Administrative Officer shall determine application completeness based on the information submitted. Notification of application completeness shall be made within 45 calendar days of the date of filing. If the application is deemed incomplete, the Administrative Officer shall at the same time advise the applicant of the deficiencies in the submission. All re-filings shall be treated as initial filings for purposes of this section.

6. Referral to Board; Noticing Requirements.

a. All preservation plans associated with a development application, whether major preservation plans or minor preservation plans, shall be referred to and reviewed by the Planning Board, which may be simultaneous with site plan/subdivision review.

b. All major preservation plans *not associated* with a development application shall be referred to and reviewed by the Planning Board. The Administrative Officer shall notify the applicant of the date set for the hearing.

c. ~~All minor preservation plans shall be referred to and reviewed by the Historic Review Subcommittee. The administrative officer shall notify the applicant of the date set for the Subcommittee meeting. The Historic Review Subcommittee may refer to the Planning Board any minor preservation plan that it determines requires full Planning Board review.~~

All minor preservation plan applications shall be referred to and reviewed by the Historic Review Subcommittee. The Historic Review Subcommittee shall give the applicant an opportunity to be

heard during the review of the minor preservation plan. The Historic Review Subcommittee shall approve or disapprove the minor preservation plan and memorialize its decision together with its findings and recommendations in writing. A minor preservation plan shall be approved only when the Historic Review Subcommittee is satisfied that the minor preservation plan conforms to the criteria articulated in Section 713B. If the Historic Review Subcommittee finds that the minor preservation plan does not conform to the provisions of Section 713B, the minor preservation plan shall be referred to the Planning Board for full Planning Board review.

d. Noticing requirements

(1). Any preservation plan application, major or minor, associated with a development application shall be noticed in conjunction with the development application notice.

(2). Any major preservation plan application not associated with a development application shall be noticed, at least ten (10) days prior to the hearing, by personal service or ordinary mail to all owners of property located within 200 feet of the lot which is the subject of the hearing on the application and of the date, time and place of the hearing with a brief description of the work for which approval is sought. No other notice requirements shall apply.

(3). Any minor preservation plan application not associated with a development application shall not be subject to notice requirements.

B. Major Preservation Plan Review.

1. All major preservation plans associated with a development application shall be reviewed in conjunction with the application for development with which they are associated.

2. A major preservation plan is not associated with a development application will be reviewed by the Planning Board in accordance with the criteria articulated in Section 713B.

3. The decision of the Planning Board shall be conveyed to the administrative officer via resolution. The administrative officer will issue the preservation permit or deny it in accordance with the resolution.

C. Minor Preservation Plan Review.

1. All minor preservation plans associated with a development application shall be reviewed in conjunction with the application for development with which they are associated.

2. A minor preservation plan is not associated with a development application will be reviewed by the Historic Review Subcommittee in accordance with the criteria articulated in Section 713B.

3. The decision of the Historic Review Subcommittee shall be conveyed to the administrative officer via memorandum, with copy to the Planning Board. The administrative officer will issue the preservation permit or deny it in accordance with the Subcommittee's memorandum.

D. Informal Concept Review

Applicants whose preservation plans have been classified as major plans are encouraged, but not required, to pursue informal concept review before the Planning Board for the proposed work. An informal concept review should occur as early in the design of the project as is possible. The purpose of such review is to facilitate discussion between the applicant and Planning Board at a public meeting about the applicant's proposed work, and to secure the Planning Board's comments early in the design process. The applicant may secure informal concept review by filing a request with the administrative officer at least 10 days before a regularly scheduled planning board meeting on such forms as shall be provided for this purpose, together with whatever documentation the applicant deems would best illustrate his concept of the proposed work.

Section 6: Section 713 (Historic Preservation – HP) in Article 7 (Zoning Districts and Standards) shall be amended so as to read as follows:

713 HISTORIC PRESERVATION – HP

A. Purpose

The purpose of this district is to regulate development within the Borough's historic district.

B. Criteria Governing Issuance of Preservation Permits

1. ~~Generally~~ General Criteria. A preservation permit shall be granted only if the covered acts set forth in Section ~~419 A1~~ 419.1A, as proposed or as modified by conditions imposed by the planning board:

a. are compatible with the existing structures ~~and landscape~~ of the Historic Preservation District;

b. would not adversely affect the ambiance, character, and appearance of the Historic Preservation District and the relationships among structures and between structures and public ~~ways~~ or private streets in the district;

c. would not adversely affect the visual exterior architectural features and setting of the structure and its historical and architectural interest;

d. are not out of scale with the other structural elements in the ~~surrounding area~~ Historic Preservation District; and

e. are consistent with the additional criteria of this section and with the purposes of this Ordinance.

2. Additional Criteria For Proposed New Construction or Additions to Existing Structures, Moving of Structures into or within the Historic

Preservation District, Existing Structures Erected after January 1, 1930, 1929, and Outbuildings.

A preservation permit to construct new structures or additions to existing structures, or to move structures into or within the Historic Preservation District, or involving covered acts to structures erected after January 1, 1930 1929 and to outbuildings shall be granted only if the work as proposed or as modified by conditions imposed by the planning board:

a. is not incongruous with the existing structures and streetscapes of the Historic Preservation District; and

b. is visually compatible with the structures and places to which it is visually related, as judged by the following standards:

(1) The height of the proposed structure shall be visually compatible with adjacent structures within the Historic Preservation District.

(2) The relationship of the width of the structure to the height of the front elevation shall be visually compatible with structures and places to which it is visually related within the Historic Preservation District.

(3) The relationship of the width of windows to the height of windows in a structure shall be visually compatible with the structures and places to which it is visually related within the Historic Preservation District.

(4) The relationship of solids to voids in the front facade of a structure shall be visually compatible with the structures and places to which it is visually related within the Historic Preservation District.

(5) The relationship of the structure to the open space between it and adjoining structures shall be visually

compatible with the structures and places to which it is visually related within the Historic Preservation District.

(6) The relationship of entrance and porch projections to the street shall be visually compatible with the structures and places to which it is visually related within the Historic Preservation District.

(7) The relationship of materials and texture of the facade and roof of a structure shall be visually compatible with the predominant materials used in the structures to which it is visually related within the Historic Preservation District.

(8) The roof shape of a structure shall be visually compatible with structures to which it is visually related within the Historic Preservation District.

(9) If proposed, appurtenances such as walls and open-type fencing shall form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of the main structure with the structures and places to which it is visually related within the Historic Preservation District.

(10) The size of the structure, the mass of the structure in relation to open spaces, and the windows, door openings, porches and balconies shall be visually compatible with the structures and places to which it is visually related within the Historic Preservation District.

(11) A structure shall be visually compatible with structures and places to which it is visually related in its directional character, whether this be vertical character, horizontal

character, or non-directional character within the Historic Preservation District.

It is not the intent of this Ordinance to discourage contemporary architectural expression or to encourage new construction which emulates existing buildings of historic architectural interest of a certain period or architectural style, but to preserve the integrity and authenticity of the Historic Preservation District and to insure the compatibility of new structures therein. If past architectural styles are to be used, a copy of a specific structure is preferable to an amalgam of building types, forms, and styles.

3. Additional Criteria for Structures Erected Before January 1, 1930 ~~1930 other than when their~~ that does not include their Demolition or Removal from the Historic Preservation District is ~~Proposed~~.

A preservation permit for covered acts on structures erected before January 1, 1930 ~~other than~~ when such covered act is the construction of an addition or alteration to a structure or the alteration of an outbuilding ~~or other than~~ the demolition or removal of such structures from the Historic Preservation District shall be granted only if the work as proposed or as modified by conditions imposed by the planning board:

a. preserves or enhances the historical or architectural value of and character of the structure; and

b. seeks to return the structure, or the part covered by the application, to the known or reasonably conceived appearance (including design elements, architectural details, and textures) it had when it was first constructed or when it was remodeled, if the remodeling occurred before January 1, 1930. ~~except that m~~ Modifications necessary or beneficial to contemporary living consistent with the architectural design and character of the

structure or modifications which improve structures lacking architectural merit and not in character with the Historic District may be considered. In determining whether the applicant is proposing work which will restore the authenticity of the structure, as hereby required, the following principles, among other appropriate factors, shall when feasible be followed:

(1) Existing materials, if viable, if they are the original materials of the original structure or remodeling which is being restored, should be maintained and repaired rather than replaced. Modern low maintenance or energy efficient visually compatible materials may be substituted.

(2) Architectural details of the original construction or remodeling which is being restored or altered should be retained. This includes, but is not limited to, cornices and their brackets, window trims such as molded lintels, porch elements such as posts, balustrades, and spindles, and windows, particularly the number and size of the individual panes.

(3) If an element must be replaced rather than repaired, a copy visual facsimile of the original is preferable to a similar or conjectural piece.

(4) If a copy visual facsimile of a missing piece cannot be obtained, similar or conjectural items are preferable to none at all.

(5) The original roofing material should be maintained or repaired, and, if replacement is needed, it should be of the same material and size. If the same material is not available, a substitute material should be of the same shape, texture, and

size. A visually compatible modern low maintenance or energy efficient building material may be considered.

(6) Storm windows and doors are not prohibited, but should be as unobtrusive as possible.

(7) Period trim that defines the character of a building should be retained. ~~It should not be covered by application of aluminum or vinyl.~~

(8) Synthetic siding ~~(aluminum or vinyl)~~ is acceptable, but the width of the siding shall be visually appropriate for the period of the building's construction.

(9) Windows should be divided into the number of lights appropriate to the style of the building. True divided lights are preferred, but snap-in muntins are acceptable.

(10) Shutters should be of a height and width so that they appear capable of being closed. They are not appropriate on double, bay, or picture windows.

(11) Doors should have the number and type of panels suitable to the style of the building.

4. Additional Criteria for Demolition or Removal from the Historic Preservation District of Structures ~~built before 1930.~~

a. Structures Built before January 1, 1930

~~(1).~~ A preservation permit for demolition or removal from the Historic Preservation District of structures built before January 1, 1930 shall ~~not~~ be granted ~~only if~~ unless the

applicant establishes, to the satisfaction of the Planning Board, that the condition of the structure is such that the cost of necessary restoration or repairs would preclude the owner from making any reasonable economically viable use of the property

(2). A preservation permit for the partial demolition of structures built before January 1, 1930 may be granted only if the applicant provides sufficient documentation (including photographs and/or accurate drawings) of the portion of the existing exterior structure to be demolished so that any future restoration will be able to replicate appropriately the architectural details of the original structure.

(3). If a partial or total demolition of the structure built before 1930 is required to improve or modernize mechanical systems or improve energy efficiency, then such permit may be granted only if the applicant provides sufficient documentation (including photographs and/or accurate drawings) of the existing exterior structure, or portion thereof, to be demolished to enable a visually identical exterior reconstruction of the original structure. Further, to the extent possible, the applicant should salvage as many original exterior architectural components and use same in the reconstruction of the structure.

b. Structures Built after January 1, 1930

A preservation permit for the partial or total demolition of structures built after January 1, 1930 shall be granted only if the applicant provides sufficient documentation (including photographs and/or accurate drawings) of the existing structure, or portion

thereof, to be demolished so that any future restoration will be able to replicate the architectural details of the original structure.
Further, the permit will also be predicated on establishing that the site improvements being requested will contribute visually to Historic District at least as much as the structure being demolished.

Section 7. If any section or provision of this Ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 8. All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 99. This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

ATTEST:

BOROUGH OF ROCKY HILL

By: _____

Rebecca Newman, Borough Clerk

Edward Zimmerman, Mayor

Introduced: 10/21/13

Public Hearing Scheduled: 11/18/2013

Adopted: 11/18/13